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 United States Attorney

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Attorneys for the Plaintiff

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA, )  
 Plaintiff, ) No. CR 01-0149 MJJ  
 v. )  
 ACIE L. MATHEWS, et al., )  
 Defendants. )

UNITED STATES OF AMERICA, )  
 Plaintiff, ) No. CR 04-0083 MJJ  
 v. )  
 JAMES HILL, et. al., )  
 Defendants. )

**STIPULATION AND ~~PROPOSED~~ ORDER  
 VACATING THE DAUBERT EVIDENTIARY  
 HEARINGS CURRENTLY SET FOR  
 DECEMBER 13 AND 14, 2006, AND  
 SETTING DECEMBER 13, 2006 FOR  
 STATUS CONFERENCE, IN LIGHT OF  
 RECENT DEVELOPMENTS**

The United States of America, through Gregg W. Lowder, Assistant United States Attorney, and the defendants James Hill, David George, Trearl Malone and Kenya Jones, through their counsel, jointly request that the Court enter an order vacating the *Daubert* gang expert hearing currently set for December 13<sup>th</sup> and 14<sup>th</sup> and maintain December 13, 2006 at 9:00 a.m. as a status conference date, in order to permit the parties sufficient time to address a potential


1 resolution of the case; to permit time for further necessary preparation for the *Daubert* hearings,  
2 specifically to obtain and analyze the gang expert testimony of the government's central *Daubert*  
3 gang expert, who just completed multiple days of testimony as a gang expert on Westmob in a  
4 local ongoing police officer homicide jury trial; to permit the receipt and analysis of potential  
5 further testimony regarding Westmob in the same ongoing jury trial; and to permit reasonable  
6 time for the effective preparation of newly appointed counsel for defendant Kenya Jones, so  
7 that he may competently represent his client. More specifically, the parties request a continuance  
8 for all of the following reasons:

- 9       • The parties have begun settlement discussions, following the capital penalty  
10       mitigation presentations, and it is anticipated that a potential settlement position  
11       may arise out of discussions to be conducted in the next week, and parties request a  
12       reasonable continuance of the *Daubert* hearings to permit sufficient time to allow  
13       parties to turn their time and efforts immediately to this task instead of towards  
14       preparation for the *Daubert* hearing;
- 15       • The central government *Daubert* gang expert, SFPD Inspector Toney Chaplin, has  
16       recently testified as a gang expert on Westmob over the course of three days,  
17       ending last week, in the San Francisco police officer homicide trial of *People v.*  
18       *David Hill*; the parties believe this testimony is directly relevant to all witnesses  
19       and subjects in the presently set *Daubert* hearing; and the transcripts have been  
20       ordered and will be produced next week, but all parties will need additional time to  
21       analyze the transcripts before the *Daubert* hearing on December 13 and 14;
- 22       • The same jury trial, *People v. David Hill*, is anticipated to produce potentially  
23       additional testimony in the next two weeks that will bear directly on the subjects of  
24       our *Daubert* hearing; and
- 25       • this case has been deemed a complex case, in which there are over 30,000 pages of  
26       discovery, and the current attorney for Kenya Jones was just appointed  
27       approximately one month ago and needs additional time to prepare for the *Daubert*  
28       hearing in order to effectively represent his client.

For the above reasons, the parties request the *Daubert* hearings of December 13 and 14, 2006 be vacated at this time and a status conference [REDACTED] be set at on December 13 at [REDACTED] 11:00 a.m. Status Statement due 12/11/2006.

SO STIPULATED:

Dated: 12/30/06

  
GREGO WALOWDER  
Assistant United States Attorney

Dated: \_\_\_\_\_

RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

Dated: \_\_\_\_\_

GAIL SHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

Dated: \_\_\_\_\_

J. FRANK McCABE  
Attorney for Defendant Trearl Malone

Dated: \_\_\_\_\_

ERIC QUANDT  
Attorney for Defendant Kenya Jones

IT IS SO ORDERED:

Dated: 12/1/2006

  
MARTIN J. JENKINS  
United States District Judge

For the above reasons, the parties request the *Daubert* hearings of December 13 and 14, 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00 a.m.

SO STIPULATED:

Dated: \_\_\_\_\_

GREGG W. LOWDER  
Assistant United States Attorney

Dated: 11/30/06

Richard Mazer  
RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

Dated: \_\_\_\_\_

GAIL SCHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

Dated: \_\_\_\_\_

J. FRANK McCABE  
Attorney for Defendant Trearl Malone

Dated: \_\_\_\_\_

ERIC QUANDT  
Attorney for Defendant Kenya Jones

IT IS SO ORDERED:

Dated: \_\_\_\_\_

MARTIN J. JENKINS  
United States District Judge

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2 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00  
3 a.m.

4 SO STIPULATED:

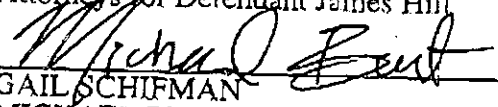
5 Dated: \_\_\_\_\_

6 GREGG W. LOWDER  
Assistant United States Attorney

7 Dated: \_\_\_\_\_

8 RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

9 Dated: 11-30-06

10   
GAIL SCHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

11 Dated: \_\_\_\_\_

12 J. FRANK McCABE  
Attorney for Defendant Trearl Malone

13 Dated: \_\_\_\_\_

14 ERIC QUANDT  
Attorney for Defendant Kenya Jones

15 IT IS SO ORDERED:

16 Dated: \_\_\_\_\_

17 MARTIN J. JENKINS  
United States District Judge

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3 a.m.

4 SO STIPULATED:

5 Dated: \_\_\_\_\_

GREGG W. LOWDER  
Assistant United States Attorney

7 Dated: \_\_\_\_\_

RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

9 Dated: \_\_\_\_\_

GAIL SCHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

12 Dated: 11/30/06

J. FRANK McCABE  
Attorney for Defendant Trearl Malone

14 Dated: \_\_\_\_\_

ERIC QUANDT  
Attorney for Defendant Kenya Jones

16 IT IS SO ORDERED:

18 Dated: \_\_\_\_\_

MARTIN J. JENKINS  
United States District Judge

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For the above reasons, the parties request the Daubert hearings of December 13 and 14, 2006 be vacated at this time and a status conference statement be set at on December 13 at 9:00 a.m.

SO STIPULATED:

Dated: GREGG W. LOWDER  
Assistant United States Attorney

Dated: RICHARD MAZER  
WILLIAM OSTERHOUDT  
Attorneys for Defendant James Hill

Dated: GAIL SCHIFMAN  
MICHAEL BURT  
Attorneys for Defendant David George

Dated: J. FRANK McCABE  
Attorney for Defendant Treard Malone

Dated: 11/30/06 ERIC QUANDT  
Attorney for Defendant Kenyana Jones

IT IS SO ORDERED.

Dated: MARTIN J. JENKINS  
United States District Judge